

LAW WINDOW

An Initiative by: **Adv. Minakshi Jain**

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CASE No. 71 dated 23.05.2025

Particulars	Details
Name of Petitioner	M/S. Sheetal and Sons & Ors.
Name of Respondent	UOI & Ors.
Case No.	W. P. (C) 6441/2025 & Ors.
High Court	Delhi High Court
Date of Judgement	15.05.2025
Decision	dismissed

Topic:- Writ Petitions Challenging ITC Fraud Allegations Dismissed; Petitioners Directed to Avail Statutory Appeal Remedy Under section 107 of CGST Act, 2017.

These writ petitions challenged an Order-in-Original dated 4.02.2025, issued by the GST department under Sections 74 and 122 of the CGST Act, 2017, following a SCN dated 24th May 2022. The core allegation was that Input Tax Credit had been fraudulently availed by several firms using fake invoices without actual supply of goods.

Fact of the Case: Investigations by the Directorate General of GST Intelligence named 5 firms involved in suspicious transactions:

- **M/s S R Impex** – ₹47.49 Crores
- **M/s S R International** – ₹50.66 Crores
- **M/s R K Enterprises** – ₹11.39 Crores
- **M/s Vikas Impacts** – ₹10.45 Crores
- **M/s SK Traders** – ₹2.82 Crores

Two of the petitioners' firms—**M/s Sheetal & Sons** and **M/s Vikas Traders**—were linked to these entities. Both are controlled by **Mr. Sunny Jagga**, who

admitted during investigation that he was responsible for their day-to-day operations.

Respondent's submission: The impugned order found that the petitioners had availed fraudulent ITC. Multiple personal hearings were scheduled in January 2025, but the petitioners failed to appear, prompting an ex-parte decision.

The department confirmed that both the SCN and supporting documents were served to the petitioner via his verified email.

Petitioner's Submission: The petitioner denied fraudulent intent, stating that goods were invoiced and delivered as per instructions from Mr. Gopal Sharma, a long-standing business associate. He claimed no knowledge of the recipient firms being fake or non-existent. He asserted that all payments for such transactions were received through proper banking channels, suggesting no cash or underhand dealings.

He questioned the validity of the personal hearing, saying that no actual hearing took place, and he never received notice for the same. He argued that the adjudicating authority passed the order without giving a fair chance to present his defense. The incorrect upload date of the Order-in-Original on the GST portal was also raised, although the Court held that this issue could be addressed in appeal.

Court's analysis and Decision: The Court acknowledged that personal hearing notices were issued and recorded in the adjudication order. There was no solid proof to refute this. It found no violation of natural justice, as the petitioners were well-aware of the proceedings and failed to file any reply or documentary evidence.

The Court clarified that writ jurisdiction under Article 226 is not meant for examining detailed factual disputes like whether goods were actually supplied or ITC was legitimately claimed.

Referring to a Supreme Court decision in *Assistant Commissioner of State Tax v. M/s Commercial Steel Limited*, the Court emphasized that writ petitions should be entertained only in exceptional cases:-

(i) a breach of fundamental rights;

(ii) a violation of the principles of natural justice;

(iii) an excess of jurisdiction; or

(iv) a challenge to the vires of the statute or delegated legislation. which were not present here.

The Court dismissed the writ petitions and directed the petitioners to approach the Appellate Authority under Section 107 of the CGST Act by 15th July 2025.

It was clarified that the appeal should not be dismissed on limitation grounds and must be decided on merits.

Regards,

Minakshi Jain, Advocate

Author and founder of Law Window

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